

III.—PRISONERS IN THE MOFUSSIL.

16. Officers in charge of prisons situate outside

Officers in charge of prisons may give effect to sentences of certain Courts.

the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General in Council, or of any Local Government.

17. A warrant under the official signature of

Warrant of officer of such Court to be sufficient authority.

an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

18. Any officer in charge of a prison doubting

Procedure where jailor doubts the legality of warrant sent to him for execution.

the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

19. The Local Government may authorize the

Imprisonment in British India of persons convicted of certain offences in Native States.

reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences:—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,

forgery, and

theft of cattle;

or for an attempt to commit any of the above offences,

or for abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided that such sentences have been

Proviso.

pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor General in Council, is one of the presiding Judges.

20. Every officer of Government so authorized

Certificate of conviction.

as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

21. Every person sentenced to be kept in penal

Persons sentenced to penal servitude where sent, and how dealt with.

servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

The time of such intermediate imprisonment,

Time of intermediate imprisonment to count in discharge of sentence.

and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

22. All Acts and Regulations now in force

Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.

within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

23. The Governor General in Council may

Power to grant license to convict sentenced to penal servitude.

grant to any convict sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

24. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

26. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

27. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

28. Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

29. If a license be granted under section twenty-three upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—REMOVAL OF PRISONERS.

30. When any person is, or has been, sentenced to imprisonment by any Court, the Local Government, or (subject to its orders and under its control) the Inspector General of Jails, may order his removal during the period prescribed for his imprisonment, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

31. Whenever it appears to the Local Government that any person, detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such person is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or, if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then until he is discharged according to law.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand the prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

The provisions of section nine of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

32. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

33. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered.

34. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

- the classification of convicts;
- their confinement, treatment, discipline, and employment;
- their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and
- the manner in which the proceeds (if any) of their employment shall be disposed of.

VII.—DISCHARGE OF CONVICTS.

35. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

SCHEDULE.

(See Section 2.)

Number and year of Act.	Subject or Title.	Extent of repeal.
VII of 1837	... Charter Courts' power to discharge convicts recommended for pardon.	The whole.
XVI of 1840	... An Act concerning the management of Convicts transported to places within the territories of the East India Company.	The whole.
XXIV of 1855	... An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.	Sections five, six, seven, nine, ten, eleven, and twelve.
XVII of 1860	... An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
XXV of 1861 } VIII of 1869 }	... The Code of Criminal Procedure. ...	Sections forty-nine, forty-nine A, and three hundred-and-ninety-six.
VIII of 1863	... An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	The whole.
VIII of 1865	... An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.	The whole.
II of 1867	... An Act to make further provision for the removal of prisoners.	The whole.
XII of 1867	... An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay.	The whole.
XXVI of 1869	... An Act to correct a clerical error in Act No. VIII of 1863.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 4, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the
Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th January 1871, and is hereby promulgated for general information :—

ACT No. III of 1871.

THE INDIAN PAPER CURRENCY ACT, 1871.

CONTENTS.

PREAMBLE.

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Local extent.
Commencement.
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II.—The Department of Issue.

3. Functions of Department of Issue.
4. Head Commissioner.
Commissioners at Madras and Bombay.
5. Power to establish Circles of Issue.
6. Deputy Commissioners.
7. Subordination of Commissioners and Deputy Commissioners.
8. Appointment, suspension and removal of officers.

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9. Head Commissioner to provide and distribute currency notes.
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10. Signatures to notes.

SECTION.

11. Issue of notes for silver.
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Annual account.

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21. Prohibition of issue of private bills or notes payable to bearer on demand.
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22. Penalty for issuing such bills or notes.
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VI.—*Miscellaneous.*

23. Monthly abstracts of accounts.
24. Description of notes in indictments.
25. Supplementary powers of the Government of India.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE GOVERNMENT PAPER CURRENCY.

WHEREAS it is expedient to consolidate and amend the law relating to the Government Paper Currency ; It is hereby enacted as follows :—

I.—*Preliminary.*

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|----------------|--|
| Short title. | 1. This Act may be called
“The Indian Paper Currency Act, 1871”: |
| Local extent. | It extends to the whole of
British India ; |
| Commencement. | And it shall come into
force on the passing thereof. |
| Acts repealed. | 2. The Acts mentioned
in the schedule hereto annex-
ed are repealed. |

All appointments made, rules prescribed, circles of issue established, notifications published, and notes issued under any such Act shall be deemed to be respectively made, prescribed, established, published and issued under this Act.

II.—*The Department of Issue.*

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|---|-----------------------------------|
| 3. There shall continue to be a Department of the public service, to be called the Department of Issue, whose function shall be the issue of promissory notes of the Government of India payable to bearer on demand, for such sums, not being less than five rupees, as the Governor General in Council from time to time directs. | Functions of Department of Issue. |
|---|-----------------------------------|

- | | |
|---|---|
| 4. At the head of such Department shall be an officer called the Head Commissioner of the Department of Issue, and two other officers, called, respectively, the Commissioner of the Department of Issue at Madras and the Commissioner of the Department of Issue at Bombay. | Head Commissioner.
Commissioners at Madras and Bombay. |
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| 5. The Governor General in Council may from time to time, by order published in the <i>Gazette of India</i> , establish Districts, to be called Circles of Issue, three of which circles shall include the Towns of Calcutta, Madras and Bombay, respectively, | Power to establish Circles of Issue. |
|--|--------------------------------------|

establish in each circle some one town to be the place of issue of notes, as hereinafter provided, establish in such town an Office or Offices of Issue, and

appoint in each circle some one town to be the place of issue of notes, as hereinafter provided, establish in such town an Office or Offices of Issue, and

declare that, for the purposes of this Act, any such town (other than Calcutta, Madras or Bombay) shall be deemed to be situate within such Presidency as is specified in the order.

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|---|-----------------------|
| 6. For each Circle of Issue other than these which include the Towns of Calcutta, Madras and Bombay, there shall be an officer called the Deputy Commissioner of Issue. | Deputy Commissioners. |
|---|-----------------------|

7. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner :

the Deputy Commissioners in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner ; and

the Deputy Commissioners in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay, respectively.

8. All officers under this Act shall be appointed, and may be suspended or removed, by the Governor General in Council.

III.—Supply and Issue of Currency Notes.

9. The Head Commissioner of Issue shall provide promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, and shall supply the Commissioners at Madras and Bombay, and the several Deputy Commissioners with such notes as they require for the purposes of this Act.

All such notes shall bear upon them the name of the town from which they are severally issued, and shall be payable only—

at the Office or Offices of Issue of such town and

at the Presidency town of the Presidency within which such town is situate.

10. The name of the Head Commissioner, of either of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign notes issued under this Act, shall be subscribed to every such note, and may be impressed thereon by machinery.

Names so impressed shall be taken to be valid signatures.

11. The Head Commissioner, the Commissioners, and the Deputy Commissioners shall, in their respective Circles of Issue, on the demand of any person, issue from the Office or Offices of Issue established in their respective Circles, promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, on the terms following :—

(a) in exchange for the amount thereof in current silver coin of the Government of India ; or,

(b) in exchange for the amount thereof in silver bullion or foreign silver coin at the rate of nine hundred and seventy-nine rupees per one hundred and eighty thousand grains of silver fit for coinage and of the standard fineness prescribed by the Indian Coinage Act, 1870 :

Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioner, or Deputy Commissioner may refuse to issue notes in exchange for silver bullion or foreign coin under this section.

12. The Governor General in Council may from time to time, by order published in the *Gazette of India*, direct that notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices of Issue as are named in the order, in exchange for gold coin of full weight of the Government of India or for foreign gold coin or gold bullion, at the rates and according to the rules and conditions fixed by such order.

13. The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under section eleven or section twelve to be melted and assayed.

Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

14. Every person so tendering bullion or foreign coin and depositing it in any Office of Issue shall, after the expiration of the time necessary for melting and assaying the same, be entitled to receive therefor a certificate signed by the person authorized to issue the notes aforesaid.

Contents of certificate. Such certificate shall—

(a) acknowledge the receipt of such bullion or foreign coin,

(b) state the amount of notes issued under this Act, or of such notes and cash, to which the holder is entitled in exchange for such bullion or coin,

(c) state the interval on the expiration of which, if the certificate be presented to such office, the holder shall be entitled to receive such amount.

15. Within any of the said Circles of Issue a note issued under this Act from any Office of Issue in such Circle, shall be a legal tender to the amount expressed in such note, in payment or on account of—

any revenue or other claim to the amount of five rupees and upwards due to the Government of India,

any sum of five rupees and upwards due by the Government of India, or by any body corporate or person in British India :

Provided that no such note shall be deemed to be a legal tender by the Government of India at any Office of Issue.

IV.—Reserve.

16. The whole amount of the coin and bullion received under this Act for notes shall be retained and secured as a reserve to pay such notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor General in Council, with the consent of the Secretary of State for India, from time to time fixes.

17. The amount so fixed shall be published in the *Gazette of India*, and the whole or such part thereof as the Governor General in Council from time to time fixes shall be invested in securities of the Government of India: the said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes; and the said notes shall be deemed to have been issued on the security of such coin, bullion and securities, as well as on the general credit of the Government:

Provided that any silver bullion or foreign coin received under this Act may be sold or exchanged for silver coin, of the Government of India, and that any gold coin or bullion received under this Act may be sold or exchanged for silver coin or bullion to be so appropriated and set apart instead of the gold coin or bullion.

For the purposes of this section, silver bullion and coin shall be rated at ninety-eight rupees per eighteen thousand grains of standard fineness, and gold bullion and coin at the rates fixed by the Governor General in Council under section twelve.

18. The Government securities so purchased shall be held by the Head Commissioner and the Master of the Mint at Calcutta in trust for the Secretary of State for India in Council.

19. The Head Commissioner may, at any time when ordered so to do by the Governor General in Council, sell and dispose of any portion of the above-mentioned limited amount of Government securities.

For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse such Government securities, and the said Head Commissioner, if so directed by the Governor General of India in Council, may purchase Government Securities to replace such sales.

20. The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor General in Council.

The amount of such interest shall from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation,"

and an account showing the amount of such profits and of the charges and expenses incidental thereto, shall be made up and published annually in the *Gazette of India*.

V.—Private Bills payable to Bearer on Demand.

21. No body corporate or person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money

payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand, of any such body corporate or of any such person:

Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs, or agents, by their customers or constituents, in respect of deposits of money in the hands of such bankers, shroffs, or agents, and held by them at the credit and disposal of the persons drawing such cheques or drafts.

22. Any body corporate or person committing any offence under section twenty-one shall, on conviction before a Magistrate of Police or a person exercising the full powers of a Magistrate, be punished with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Every prosecution under this section shall be instituted by the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the Circle of Issue in which such bill, hundi, note or engagement is drawn, accepted, made or issued.

All fines imposed under this section may be recovered, if for offences committed outside the local limits of the Presidency towns, in the manner prescribed by the Code of Criminal Procedure, and, if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of those towns in force for the time being.

VI.—Miscellaneous.

23. An abstract of the accounts of the Department of Issue showing—
Monthly abstracts of (a) the whole amount of accounts, notes in circulation,

(b) the amount of coin and bullion reserved, distinguishing gold from silver, and

(c) the amount of the Government Securities held by the said Department,

shall be made up monthly in Calcutta, and published as soon as may be in the *Gazette of India*.

24. All notes issued under this Act shall be deemed to be promissory notes of the Government of India, and may be described as promissory notes of the Government of India in all indictments, and in criminal and civil proceedings.

25. The Governor General in Council may from time to time, by notification in the *Gazette of India*—

(1) fix the amounts (not being less than five rupees) for which notes shall be issued under this Act,

(2) alter the limits of any of the said Circles of Issue,

(3) declare the places at which notes shall be issued under this Act,

(4) fix the rates, rules and conditions at and according to which gold may be taken in exchange for Government promissory notes issued under this Act,

(5) fix the charge for melting and assaying bullion and foreign coin received for such notes,

(6) fix the interval on the expiration of which holders of certificates under section fourteen shall be entitled to receive such notes,

(7) regulate any matters relative to Paper Currency which are not provided for by this Act,

(8) revoke or alter any notification previously made under this Act.

Every such notification shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act:

Provided that no notification under clause (4) of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India*.

SCHEDULE.

Number and year of Act.	Title.
XIX of 1861 ...	An Act to provide for a Government Paper Currency.
XXIV of 1861 ...	An Act to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.
I of 1866 ...	An Act to amend Act XIX of 1861 (to provide for a Government Paper Currency.)
XXX of 1867 ...	An Act to amend Act XIX of 1861 (to provide for a Government Paper Currency.)
XV of 1870 ...	An Act for the further amendment of Act No. XIX of 1861.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th January 1871, and is hereby promulgated for general information:—

ACT No. IV OF 1871.

THE CORONERS' ACT, 1871.

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11. Power to disinter body.
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26. Coroner may issue warrant against accused.
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42. Limitation of suits.

FIRST SCHEDULE. Enactments repealed.

SECOND SCHEDULE. Form of inquisition.

AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO CORONERS.

WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

CHAPTER I.—Preliminary.

- Short title. 1. This Act may be called "The Coroners' Act, 1871."
- It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;
- Local extent.
- Commencement. And it shall come into force on the passing thereof.
- Repeal of enactments. 2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

CHAPTER II.—Appointment of Coroners.

3. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts, there shall be a Coroner. Such Coroners shall be

called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

4. Every such officer shall be appointed and Their appointment, may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

CHAPTER III.—*Duties and Powers of Coroners.*

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison, and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate

Coroner to be sent for within the place for which a when prisoner dies. Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

10. Whenever an inquest ought to be holden

Power to hold inquests on bodies within local limits wherever cause of death occurred. on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

Power to order body to be disinterred.

12. On receiving notice of any death mentioned

Summoning jury. in section eight, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Inquest may be on Sunday. Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall

Opening Court. proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a sufficient jury is in attendance, he

Jurors to be sworn. shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and

View of body. examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation

Proclamation for witnesses. for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death

Summoning witnesses. to appear before the inquest as witnesses: the Coroner shall enquire of such circumstances and the cause of the death; and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

Any person failing so to attend or give evidence shall be deemed to have committed an offence under section one hundred and seventy-four or one hundred and seventy-six of the Indian Penal Code, as the case may be.

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act No. XV of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.*)

18. The Coroner may direct the performance

Post mortem examination. of a post mortem examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on

Evidence to be on oath. Evidence on behalf of accused. oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined

Interpreter. through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the

Questions suggested by jury. Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the

Coroner to take down evidence in writing. material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

Any witness refusing so to sign shall be deemed

Witnesses to sign depositions. to have committed an offence under section one hundred and eighty of the Indian Penal Code.

Coroner to subscribe depositions. Every such deposition shall be subscribed by the Coroner.

Adjournment of inquest. 21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner

Jurors' recognizances. shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

The amount of such recognizances shall in each case be fixed by the Coroner.

22. When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(1) where, when, and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when, and by what means the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or act to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and shall, immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

26. The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

27. In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next criminal sessions, and thereupon such person, if in custody of any officer of the Coroner's Court, or in any gaol under a warrant of commitment issued by the Coroner, shall be discharged therefrom.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken.

29. No inquisition found upon or by any inquisitions not to be quashed for want of form. any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

30. It shall no longer be the duty of the Coroner to enquire whether any person dying by his own act was or was not *felo de se*, to enquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se. A *felo de se* shall not forfeit his goods.

Deodands. Deodands are hereby abolished.

CHAPTER IV.—Coroner's Juries.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

CHAPTER V.—*Rights and Liabilities of Coroners.*

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

38. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests, and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him;

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Revocation of appointment.

Exemption from serving on juries.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

Privilege from arrest.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

Penalty for failure to comply with Act.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of three months from such fact or failure, nor after tender of sufficient amends.

Limitation of suits.

FIRST SCHEDULE.

Number and year.	Title.	Extent of Repeal.
33 Geo. III, cap. fifty-two.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four.	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' Juries ...	The whole.
Act No. XLV of 1850.	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at _____ on the _____ day of _____, 187____, before E F, Coroner of _____ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [*or by a majority of* _____] that the death of the said A B was caused, on or about the day of _____ 187____, by [*here state the cause of death as in the following examples—*

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [*or accidental*] homicide.
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [*or culpable homicide amounting to murder, or a rash or negligent act not amounting to culpable homicide.*]
2. *Cases of accident*—falling out of a boat into the river Hughli, whereby he was drowned.
— a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.
— arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.
— apoplexy.
— sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of

G H, I J, K L, M N, O P (jurors).

WHITLEY STOKES,

Secretary to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th January 1871, and is hereby promulgated for general information:—

ACT No. V OF 1871.

THE PRISONERS' ACT, 1871.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO PRISONERS CONFINED BY ORDER OF A COURT.

For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called
"The Prisoners' Act, 1871."
- It extends to the whole of
British India;
- And it shall come into force
on the passing thereof.
2. The Acts mentioned in the Schedule hereto
annexed are repealed to the
extent specified in the third
column of the said Schedule.

II.—PRISONERS IN THE PRESIDENCY TOWNS.

3. All writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary, or other criminal jurisdiction, shall be directed to and executed by any officer of Police within the local limits of such jurisdiction.

4. The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.

All such officers appointed under any Act hereby repealed, shall be deemed to be appointed under this Act.

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison, in Madras, the Superintendent of Prisons for the town of Madras, and in Bombay, by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as 'the Superintendent.'

5. The Superintendent is hereby authorized and Superintendents to required to keep and detain all persons duly committed to his custody pursuant to the provisions of this Act, or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner, or other public officer lawfully

exercising civil or criminal jurisdiction according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged by due course of law.

6. The Superintendent shall forthwith after the execution of every such writ, order, or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order, or warrant to the Court or other officer by which or by whom the same has been issued or made, together with a certificate endorsed thereon and signed by the Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, an order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the Superintendent.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent, together with a warrant of commitment.

11. Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with a warrant of the Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing him to

have the body of such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that he may be dealt with according to law.

13. Pending any such enquiry as is mentioned in section eight of Act No. XXIII of 1861 (*to amend Act VIII of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and the Superintendent is hereby authorized and required to detain such defendant in safe custody until he is re-delivered to the Officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

14. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras, or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*),

or in pursuance of a warrant issued under section three of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction;

and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the Confinement of State Prisoners*), Regulation II of 1819 of the Madras Code (*for the Confinement of State Prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the Confinement of State Prisoners, and for the Attachment of the Lands of Chieftains and others, for Reasons of State*), may be directed to the Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better Custody of State Prisoners*), and Act No. III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

III.—PRISONERS IN THE MOFUSSIL.

16. Officers in charge of prisons situate outside

Officers in charge of prisons may give effect to sentences of certain Courts. the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General in Council, or of any Local Government.

17. A warrant under the official signature of

Warrant of officer of such Court to be sufficient authority. an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

18. Any officer in charge of a prison doubting

Procedure where jailor doubts the legality of warrant sent to him for execution. the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

19. The Local Government may authorize the

Imprisonment in British India of persons convicted of certain offences in Native States. reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences:—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,
making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,

forgery, and

theft of cattle;

or for an attempt to commit any of the above offences,

or for abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided that such sentences have been

Proviso. pronounced after trial before a tribunal in which an officer

of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor General in Council, is one of the presiding Judges.

20. Every officer of Government so authorized

Certificate of conviction. as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of

Copy of proceedings. the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

21. Every person sentenced to be kept in penal

Persons sentenced to penal servitude where sent, and how dealt with. servitude may, during the term of the sentence, be confined in such prison within British India as the Governor

General in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

Intermediate imprisonment.

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

22. All Acts and Regulations now in force

Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude. within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent

with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

23. The Governor General in Council may

Power to grant license to convict sentenced to penal servitude. grant to any convict sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in

such license is expressed, during such portion of his term of servitude, and upon such conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

24. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

26. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

27. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

28. Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

29. If a license be granted under section twenty-three upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—REMOVAL OF PRISONERS.

30. When any person is, or has been, sentenced to imprisonment by any Court, the Local Government, or (subject to its orders and under its control) the Inspector General of Jails, may order his removal during the period prescribed for his imprisonment, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

31. Whenever it appears to the Local Government that any person, detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such person is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or, if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then until he is discharged according to law.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand the prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

The provisions of section nine of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

32. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

33. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered.

34. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;
their confinement, treatment, discipline, and employment;
their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and
the manner in which the proceeds (if any) of their employment shall be disposed of.

VII.—DISCHARGE OF CONVICTS.

35. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

SCHEDULE.

(See Section 2.)

Number and year of Act.	Subject or Title.	Extent of repeal.
VII of 1837	... Charter Courts' power to discharge convicts recommended for pardon.	The whole.
XVI of 1840	... An Act concerning the management of Convicts transported to places within the territories of the East India Company.	The whole.
XXIV of 1855	... An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.	Sections five, six, seven, nine, ten, eleven, and twelve.
XVII of 1860	... An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
XXV of 1861 } VIII of 1869 }	... The Code of Criminal Procedure. ...	Sections forty-nine, forty-nine A, and three hundred-and-ninety-six.
VIII of 1863	... An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	The whole.
VIII of 1865	... An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.	The whole.
II of 1867	... An Act to make further provision for the removal of prisoners.	The whole.
XII of 1867	... An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay.	The whole.
XXVI of 1869	... An Act to correct a clerical error in Act No. VIII of 1863.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 11, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th January 1871, and is hereby promulgated for general information :—

ACT No. IV OF 1871.

THE CORONERS' ACT, 1871.

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AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO CORONERS.

WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

CHAPTER I.—Preliminary.

- Short title. 1. This Act may be called "The Coroners' Act, 1871."
- It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;
- Local extent.
- Commencement. And it shall come into force on the passing thereof.
- Repeal of enactments. 2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

CHAPTER II.—Appointment of Coroners.

3. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts, there shall be a Coroner. Such Coroners shall be

called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

4. Every such officer shall be appointed and their appointment may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

- Power to hold other offices. 6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

CHAPTER III.—*Duties and Powers of Coroners.*

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison, and that the body is lying within the place for which the Coroner is so appointed, the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

12. On receiving notice of any death mentioned in section eight, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses: the Coroner shall enquire of such circumstances and the cause of the death; and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence in the inquest.

Any person failing so to attend or give evidence shall be deemed to have committed an offence under section one hundred and seventy-four or one hundred and seventy-six of the Indian Penal Code, as the case may be.

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act No. XV of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.*)

18. The Coroner may direct the performance of a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

Any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code.

Every such deposition shall be subscribed by the Coroner.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

The amount of such recognizances shall in each case be fixed by the Coroner.

22. When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(1) where, when, and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when, and by what means the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or act to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and shall, immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

26. The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

27. In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder, or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next criminal sessions, and thereupon such person, if in custody of any officer of the Coroner's Court, or in any gaol under a warrant of commitment issued by the Coroner, shall be discharged therefrom.

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken.

29. No inquisition found upon or by any inquisition shall be quashed for want of form, or any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

30. It shall no longer be the duty of the Coroner to enquire whether any person dying by his own act was or was not *felo de se*, to enquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se. A *felo de se* shall not forfeit his goods.

Deodands. Deodands are hereby abolished.

CHAPTER IV.—Coroner's Juries.

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

CHAPTER V.—*Rights and Liabilities of Coroners.*

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

37. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

38. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests, and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him;

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Revocation of appointment.

39. No Coroner or Deputy Coroner shall be liable to serve as a juror.

40. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

41. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of three months from such fact or failure, nor after tender of sufficient amends.

Exemption from serving on juries.

Penalty for failure to comply with Act.

Limitation of suits.

FIRST SCHEDULE.

Number and year.	Title.	Extent of Repeal.
33 Geo. III, cap. fifty-two.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four.	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' Juries ...	The whole.
Act No. XLV of 1850.	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at _____ on the _____ day of _____, 187 _____, before E F, Coroner of _____ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [*or by a majority of* _____] that the death of the said A B was caused, on or about the _____ day of _____, 187 _____, by [*here state the cause of death as in the following examples—*

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [*or accidental*] homicide.
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [*or culpable homicide amounting to murder, or a rash or negligent act not amounting to culpable homicide.*]
2. *Cases of accident*—falling out of a boat into the river Hughli, whereby he was drowned.
— a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.
— arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.
— apoplexy.
— sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of _____

G H, I J, K L, M N, O P (jurors).

WHITLEY STOKES,

Secretary to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th January 1871, and is hereby promulgated for general information :—

ACT No. V OF 1871.

THE PRISONERS' ACT, 1871.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO PRISONERS CONFINED BY ORDER OF A COURT.

For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

I.—PRELIMINARY.

- Short title. 1. This Act may be called "The Prisoners' Act, 1871."
- Local extent. It extends to the whole of British India;
- Commencement. And it shall come into force on the passing thereof.
2. The Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of the said Schedule.
- Repeal of Acts.

II.—PRISONERS IN THE PRESIDENCY TOWNS.

3. All writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary, or other criminal jurisdiction, shall be directed to and executed by any officer of Police within the local limits of such jurisdiction.
- Warrants and writs to be directed to Police Officers.

4. The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.
- Power to appoint Superintendent of Presidency Prisons.

All such officers appointed under any Act hereby repealed, shall be deemed to be appointed under this Act.

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison, in Madras, the Superintendent of Prisons for the town of Madras, and in Bombay, by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as 'the Superintendent.'

5. The Superintendent is hereby authorized and Superintendents to required to keep and detain persons committed to his custody pursuant to the provisions of this Act, or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner, or other public officer lawfully

exercising civil or criminal jurisdiction according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged by due course of law.

6. The Superintendent shall forthwith after the execution of every such writ, order, or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order, or warrant to the Court or other officer by which or by whom the same has been issued or made, together with a certificate endorsed thereon and signed by the Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, an order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the Superintendent.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent, together with a warrant of commitment.

11. Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with a warrant of the Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing him to

have the body of such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that he may be dealt with according to law.

13. Pending any such enquiry as is mentioned in section eight of Act No. XXIII of 1861 (*to amend Act VIII of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and the Superintendent is hereby authorized and required to detain such defendant in safe custody until he is re-delivered to the Officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

14. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras, or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*),

or in pursuance of a warrant issued under section three of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction;

and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the Confinement of State Prisoners*), Regulation II of 1819 of the Madras Code (*for the Confinement of State Prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the Confinement of State Prisoners, and for the Attachment of the Lands of Chieftains and others, for Reasons of State*), may be directed to the Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better Custody of State Prisoners*), and Act No. III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

III.—PRISONERS IN THE MOFUSSIL.

16. Officers in charge of prisons situate outside

Officers in charge of prisons may give effect to sentences of certain Courts.

the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General in Council, or of any Local Government.

17. A warrant under the official signature of

Warrant of officer of such Court to be sufficient authority.

an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

18. Any officer in charge of a prison doubting

Procedure where jailor doubts the legality of warrant sent to him for execution.

the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

19. The Local Government may authorize the

Imprisonment in British India of persons convicted of certain offences in Native States.

reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences:—

- counterfeiting coin,
- uttering counterfeit coin,
- murder,
- culpable homicide not amounting to murder,
- being a thug,
- voluntarily causing grievous hurt,
- administering poison,
- kidnapping,
- selling minors for purposes of prostitution,
- rape,
- robbery,
- dacoity,
- dacoity with murder,
- robbery or dacoity with attempt to cause death or grievous hurt,
- attempt to commit robbery or dacoity when armed with a deadly weapon,
- making preparation to commit dacoity,
- belonging to a gang of dacoits,
- dishonest misappropriation of property,
- breach of trust,
- house-burning,
- house-breaking,

forgery, and

theft of cattle;

or for an attempt to commit any of the above offences,

or for abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive, or of any of the other offences above specified,

or for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided that such sentences have been pronounced after trial before

Proviso.

a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor General in Council, is one of the presiding Judges.

20. Every officer of Government so authorized

Certificate of conviction.

as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

21. Every person sentenced to be kept in penal

Persons sentenced to penal servitude where sent, and how dealt with.

servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

The time of such intermediate imprisonment

and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

22. All Acts and Regulations now in force

Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.

within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

23. The Governor General in Council may

grant to any convict sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

24. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

26. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

27. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

28. Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

29. If a license be granted under section twenty-three upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—REMOVAL OF PRISONERS.

30. When any person is, or has been, sentenced to imprisonment by any Court, the Local Government, or (subject to its orders and under its control) the Inspector General of Jails, may order his removal during the period prescribed for his imprisonment, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

31. Whenever it appears to the Local Government that any person, detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such person is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or, if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then until he is discharged according to law.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand the prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

The provisions of section nine of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

32. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

33. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered.

34. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;
their confinement, treatment, discipline, and employment;
their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and
the manner in which the proceeds (if any) of their employment shall be disposed of.

VII.—DISCHARGE OF CONVICTS.

35. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

SCHEDULE.

(See Section 2*)

Number and year of Act.	Subject or Title.	Extent of repeal.
VII of 1837 ...	Charter Courts' power to discharge convicts recommended for pardon.	The whole.
XVI of 1840 ...	An Act concerning the management of Convicts transported to places within the territories of the East India Company.	The whole.
XXIV of 1855 ...	An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.	Sections five, six, seven, nine, ten, eleven, and twelve.
XVII of 1860 ...	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
XXV of 1861 } VIII of 1869 }	... The Code of Criminal Procedure. ...	Sections forty-nine, forty-nine A, and three hundred-and-ninety-six.
VIII of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	The whole.
VIII of 1865 ...	An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.	The whole.
II of 1867 ...	An Act to make further provision for the removal of prisoners.	The whole.
XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay.	The whole.
XXVI of 1869 ...	An Act to correct a clerical error in Act No. VIII of 1863.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th February 1871, and is hereby promulgated for general information :—

Act No. VI of 1871.

THE BENGAL CIVIL COURTS ACT, 1871.

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Part I.—Bengal Regulations.

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AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE DISTRICT AND SUBORDINATE CIVIL COURTS IN BENGAL.

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.—Preliminary.

1. This Act may be called "The Bengal Civil Courts Act, 1871."

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhānsi Division.

Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI of 1865.

This Act shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.

CHAPTER II.—Constitution of Civil Courts.

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may be altered, by the Local Government.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

6. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under Chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

10. The Local Government may invest with the powers of any Court under this Act any officer in the District of Káchrá and the Divisions of Assam, Chota Nágpúr and Kuch Bihár.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four, applies to

any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

11. The general control over all the Civil Courts in any District is vested in the District Judge, but subject to the superintendence of the High Court.

12. The present Judges of the Zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13. Every District Judge, Additional Judge Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the following form:—

"I, A B, appointed to the office of of do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B,

District [or Additional or Subordinate] Judge of [or Munsif of]"

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by an Additional Judge, a Subordinate Judge or Munsif, before the District Judge or the Magistrate of the District.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

16. The Local Government may fix, and, from time to time, alter the place or places at which any Court under this Act is to be held.

17. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

CHAPTER III.—Ordinary Jurisdiction.

18. The Local Government shall fix, and may, Power to fix local from time to time, vary the limits of jurisdiction. local limits of the jurisdiction of any Civil Court under this Act:

Provided that where more than one Subordinate Judge is appointed to any District, and where more than one Munsif is appointed to any Munsifi, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such District or Munsifi, as the case may be.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to be fixed under this Act.

19. The jurisdiction of a District Judge or Subordinate Judge extends, Extent of original jurisdiction of District Judge or Subordinate Judge. subject to the provisions in the Code of Civil Procedure, section six, to all original suits cognizable by the Civil Courts.

20. The jurisdiction of a Munsif extends to Extent of Munsif's jurisdiction. all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

23. Every Court under this Act may require Power to require a witness or party to any witnesses or parties to suit or proceeding pending in be sworn. such Court, to take such oath as is prescribed by the law for the time being in force.

24. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

In cases not provided for by the former part of this section, or by any other law for the time being

in force, the Court shall act according to justice, equity and good conscience.

25. No Munsif, Subordinate Judge, Additional

Judges not to try suits Judge or District Judge shall in which they are interested, try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.—Special Jurisdiction.

26. Every District Judge may, from time to

Power to refer to Subordinate Judges appeals from Munsifs. time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

27. The High Court may, from time to time

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge. by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under

the Code of Civil Procedure, sections thirty-six, seventy-six, eighty-five, ninety-four, one hundred and nineteen, two hundred and thirty-one and two hundred and fifty-seven, or under Act No. XXIII of 1861, section eleven.

The High Court may also, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1). Proceedings under Bengal Regulation V 1799 (*to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of Persons dying intestate*).

(2). Proceedings under Act No. XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. IX of 1861 (*to amend the law relating to Minors*).

(3). Claims to attached property under the Code of Civil Procedure, section two hundred and forty-six.

(4). Applications by judgment-debtors under section two-hundred-and-seventy-three or section two-hundred-and-eighty of the same Code.

(5). Applications to file awards under section three-hundred-and-twenty-seven of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

28. Subject to the provisions of the last clause

Disposal of proceedings so transferred. of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

29. The Local Government may invest, within

Power to invest Subordinate Judges with Small Cause jurisdiction. such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

30. Section fifty-one of Act No. XI of 1865

Amendment of Act XI of 1865. (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil jurisdiction of the High Courts of Judicature*), shall be read as if for the words "Principal Sadr Amin," the words "Subordinate Judge" were substituted.

CHAPTER V.—Misfeasance.

31. Any District Judge, Additional Judge,

Suspension or removal of District Judge or Additional Judge. Subordinate Judge, or Munsif may, for any misconduct, be suspended or removed by the Local Government.

32. The High Court may, whenever it sees ur-

Suspension of Subordinate Judge. gent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

33. The High Court may appoint a Commis-

Suspension of Munsifs by High Court. sion for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such Commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such Commission, remove or suspend any Munsif, or reduce him to a lower grade.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.—*Ministerial Officers.*

35. The Judges of the District Courts shall appoint the Ministerial Officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such Officers or fine them in an amount not exceeding one month's salary.

36. The Ministerial Officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the Ministerial Officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the Ministerial Officers of any Court under his control to any other such Court.

38. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary.

SCHEDULE.

PART I.—BENGAL REGULATIONS.

Number and year.	Title.	Extent of Repeal.
III, 1793.	A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
IV, 1793.	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	Section fifteen.
VII, 1795.	A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying civil suits, in the first instance, at the City of Benares, and at Mirzapore, Ghazepore, and Jaunpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.	So much as has not been repealed.
VIII, 1795.	A Regulation for extending to the Province of Benares, with alterations and modifications, Regulation IV, 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several zillahs, and in the cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants.	Section three.
II, 1803.	A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of civil suits in the first instance, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	So much as has not been repealed.
III, 1803.	A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several zillahs in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	Section sixteen, clause one.

PART I,—*continued.*

Number and year.	Title.	Extent of Repeal.
VIII, 1805.	A Regulation for extending to the conquered Provinces situated within the Doab and on the right bank of the River Jumna, and to the Territory ceded to the Honourable the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section six and so much of section seven as extends Regulation III. 1803, section sixteen, clause one.
VII, 1832.	A Regulation for modifying certain of the Provisions of Regulation V. 1831, and for providing Supplementary Rules to that Enactment.	So much as has not been repealed.
VIII, 1833.	A Regulation for the occasional appointment of Additional Judges of the Zillah and City Courts.	The whole.

PART II.—ACTS.

Number and year.	Title.	Extent of Repeal.
IX of 1844 ...	An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameens and Sudder Ameens.	Section three so far as it applies to the Bengal Presidency.
I of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
XVI of 1868...	An Act to consolidate and amend the law relating to Principal Sadr Amíns, Sadr Amíns, and Munsifs in Bengal, and for other purposes.	The whole.
II of 1870 ...	An Act to provide for the appointment of Additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 18, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th February 1871, and is hereby promulgated for general information :—

ACT No. VI OF 1871.

THE BENGAL CIVIL COURTS ACT, 1871.

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PREAMBLE.

CHAPTER I.—*Preliminary.*

SECTION.

1. Short title.
Local extent.
Partial exclusion of Mofussil Small Cause Courts.
Commencement of Act.
2. Repeal of enactments.

CHAPTER II.—*Constitution of Civil Courts.*

3. Number of District Judges.
4. Number of Subordinate Judges and Munsifs.
5. Vacancies in District Judgeships.
6. Vacancies in Munsifships.
7. Additional Judges.
8. Temporary charge of District Judgeship.
9. Temporary charge of Munsifship.
10. Power to confer judicial powers on certain officers in Káchár, Assam, Chota Nágpúr and Kuch Bihár.
11. Control of Civil Courts in a District.
12. First District Judges, Additional Judges, Subordinate Judges and Munsifs.
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16. Power to fix sites of Courts.
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CHAPTER III.—*Ordinary Jurisdiction.*

18. Power to fix local limits of jurisdiction.
19. Extent of original jurisdiction of District Judge or Subordinate Judge.
20. Extent of Munsif's jurisdiction.
21. Appeals from District Judge and Additional Judges.
22. Appeals from Subordinate Judges and Munsifs.
23. Power to require witnesses or parties to be sworn.
24. Certain decisions to be according to Native law.
25. Munsifs or Judges not to try suits in which they are interested.

CHAPTER IV.—*Special Jurisdiction.*

26. Power to refer to Subordinate Judges appeals from Munsifs.
27. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.
28. Disposal of proceedings so transferred.
29. Power to invest Subordinate Judges with Small Cause jurisdiction.
30. Amendment of Act No. XI of 1865, section 51.

CHAPTER V.—*Misfeazance.*

31. Suspension or removal of District Judge or Additional Judge.
32. Suspension of Subordinate Judge.
33. Suspension of Munsifs by High Court.
34. Suspension of Munsifs by District Judges.

CHAPTER VI.—*Ministerial Officers.*

35. Appointment and removal of Ministerial Officers of District Courts.
36. Appointment and removal of Ministerial Officers of Subordinate Judges and Munsifs. Power to punish Ministerial Officers.
37. Transfer of Ministerial Officers.
38. Recovery of fines.

SCHEDULE.

Part I.—Bengal Regulations.

Part II.—Acts.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE DISTRICT AND SUBORDINATE CIVIL COURTS IN BENGAL.

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Bengal Civil Courts Act, 1871."
 Short title.
 It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhānsi Division.
 Local extent.
 Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI of 1865.
 Partial exclusion of Mofussil Small Cause Courts.
 This Act shall come into force on the passing thereof.
 Commencement of Act.
2. The Regulations and Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.
 Repeal of enactments.

CHAPTER II.—*Constitution of Civil Courts.*

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government.
 Number of District Judges.
4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may from time to time be altered, by the Local Government.
 Number of Subordinate Judges and Munsifs.
5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.
 Vacancies in District Judgeships.
6. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:
 Vacancies in Munsifships.
 Provided that the Local Government may, with the sanction of the Governor General in Council,

make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under Chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

10. The Local Government may invest with the powers of any Court under this Act any officer in the District of Káchéár and the Divisions of Assam, Chota Nágpúr and Kuch Bihár.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four, applies to

any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

11. The general control over all the Civil Courts in any District is vested in the District Judge, but subject to the superintendence of the High Court.

12. The present Judges of the Zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13. Every District Judge, Additional Judge Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the following form:—

"I, A B, appointed to the office of do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B,

District [or Additional or Subordinate] Judge of [or Munsif of]"

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by an Additional Judge, a Subordinate Judge or Munsif, before the District Judge or the Magistrate of the District.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

16. The Local Government may fix, and, from time to time, alter the place or places at which any Court under this Act is to be held.

17. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official *Gazette*, and the said days shall be observed accordingly.

CHAPTER III.—*Ordinary Jurisdiction.*

18. The Local Government shall fix, and may, from time to time, vary the limits of jurisdiction of any Civil Court under this Act:

Provided that where more than one Subordinate Judge is appointed to any District, and where more than one Munsif is appointed to any Munsifi, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such District or Munsifi, as the case may be.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to be fixed under this Act.

19. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions in the Code of Civil Procedure, section six, to all original suits cognizable by the Civil Courts,

20. The jurisdiction of a Munsif extends to all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

23. Every Court under this Act may require a witness or party to any suit or proceeding pending in such Court, to take such oath as is prescribed by the law for the time being in force.

24. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

In cases not provided for by the former part of this section, or by any other law for the time being

in force, the Court shall act according to justice, equity and good conscience.

25. No Munsif, Subordinate Judge, Additional Judge or District Judge shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.—*Special Jurisdiction.*

26. Every District Judge may, from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

27. The High Court may, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure, sections thirty-six, seventy-six, eighty-five, ninety-four, one hundred and nineteen, two hundred and thirty-one and two hundred and fifty-seven, or under Act No. XXIII of 1861, section eleven.

The High Court may also, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1). Proceedings under Bengal Regulation V 1799 (*to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of Persons dying intestate*).

(2). Proceedings under Act No. XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. IX of 1861 (*to amend the law relating to Minors*).

(3). Claims to attached property under the Code of Civil Procedure, section two hundred and forty-six.

(4). Applications by judgment-debtors under section two-hundred-and-seventy-three or section two-hundred-and-eighty of the same Code.

(5). Applications to file awards under section three-hundred-and-twenty-seven of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

28. Subject to the provisions of the last clause of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

29. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

30. Section fifty-one of Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil jurisdiction of the High Courts of Judicature*), shall be read as if for the words "Principal Sudr Amin," the words "Subordinate Judge" were substituted.

CHAPTER V.—Misfeazance.

31. Any District Judge, Additional Judge, Subordinate Judge, or Munsif may, for any misconduct, be suspended or removed by the Local Government.

32. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

33. The High Court may appoint a Commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such Commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such Commission, remove or suspend any Munsif, or reduce him to a lower grade.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.—Ministerial Officers.

35. The Judges of the District Courts shall appoint the Ministerial Officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such Officers or fine them in an amount not exceeding one month's salary.

36. The Ministerial Officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the Ministerial Officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the Ministerial Officers of any Court under his control to any other such Court.

38. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary.

SCHEDULE.

PART I.—BENGAL REGULATIONS.

Number and year.	Title.	Extent of Repeal.
III, 1793.	A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
IV, 1793.	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	Section fifteen.
VII, 1795.	A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying civil suits, in the first instance, at the City of Benares, and at Mirzapore, Ghazee-pore, and Jaunpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.	So much as has not been repealed.
VIII, 1795.	A Regulation for extending to the Province of Benares, with alterations and modifications, Regulation IV, 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several zillahs, and in the cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants.	Section three.
II, 1803.	A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of civil suits in the first instance, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	So much as has not been repealed.
III, 1803.	A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several zillahs in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	Section sixteen, clause one.

PART I,—continued.

Number and year.	Title.	Extent of Repeal.
VIII, 1805.	A Regulation for extending to the conquered Provinces situated within the Doonab and on the right bank of the River Jumna, and to the Territory ceded to the Honourable the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section six and so much of section seven as extends Regulation III, 1803, section sixteen, clause one.
VII, 1832.	A Regulation for modifying certain of the Provisions of Regulation V, 1831, and for providing Supplementary Rules to that Enactment.	So much as has not been repealed.
VIII, 1833.	A Regulation for the occasional appointment of Additional Judges of the Zillah and City Courts.	The whole.

PART II.—ACTS.

Number and year.	Title.	Extent of Repeal.
IX of 1844 ...	An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameer and Sudder Ameer.	Section three so far as it applies to the Bengal Presidency.
L of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
XVI of 1868...	An Act to consolidate and amend the law relating to Principal Sadr Amirs, Sadr Amirs, and Munsifs in Bengal, and for other purposes.	The whole.
II of 1870 ...	An Act to provide for the appointment of Additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 25, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the
Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His
Excellency the Governor General on the 10th February 1871, and is hereby pro-
mulgated for general information:—

ACT No. VI OF 1871.

THE BENGAL CIVIL COURTS ACT, 1871.

CONTENTS.

PREAMBLE.

CHAPTER I.—*Preliminary.*

SECTION.

1. Short title.
Local extent.
Partial exclusion of Mofussil Small Cause Courts.
Commencement of Act.
2. Repeal of enactments.

CHAPTER II.—*Constitution of Civil Courts.*

3. Number of District Judges.
4. Number of Subordinate Judges and Munsifs.
5. Vacancies in District Judgeships.
6. Vacancies in Munsifships.
7. Additional Judges.
8. Temporary charge of District Judgeship.
9. Temporary charge of Munsifship.
10. Power to confer judicial powers on certain officers in Káchár, Assam, Chota Nágpúr and
Kuch Bihár.
11. Control of Civil Courts in a District.
12. First District Judges, Additional Judges, Subordinate Judges and Munsifs.
13. Declaration of office.
14. Seals of Courts.
15. District Judges, Subordinate Judges and Munsifs to be deemed Civil Courts.
16. Power to fix sites of Courts.
17. Vacation.

CHAPTER III.—*Ordinary Jurisdiction.*

18. Power to fix local limits of jurisdiction.
19. Extent of original jurisdiction of District Judge or Subordinate Judge.
20. Extent of Munsif's jurisdiction.
21. Appeals from District Judge and Additional Judges.
22. Appeals from Subordinate Judges and Munsifs.
23. Power to require witnesses or parties to be sworn.
24. Certain decisions to be according to Native law.
25. Munsifs or Judges not to try suits in which they are interested.

CHAPTER IV.—*Special Jurisdiction.*

26. Power to refer to Subordinate Judges appeals from Munsifs.
27. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.
28. Disposal of proceedings so transferred.
29. Power to invest Subordinate Judges with Small Cause jurisdiction.
30. Amendment of Act No. XI of 1865, section 51.

CHAPTER V.—*Misfeazance.*

31. Suspension or removal of District Judge or Additional Judge.
32. Suspension of Subordinate Judge.
33. Suspension of Munsifs by High Court.
34. Suspension of Munsifs by District Judges.

CHAPTER VI.—*Ministerial Officers.*

35. Appointment and removal of Ministerial Officers of District Courts.
36. Appointment and removal of Ministerial Officers of Subordinate Judges and Munsifs.
- Power to punish Ministerial Officers.
37. Transfer of Ministerial Officers.
38. Recovery of fines.

SCHEDULE.

Part I.—Bengal Regulations.

Part II.—Acts.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE DISTRICT AND SUBORDINATE CIVIL COURTS IN BENGAL.

WHEREAS it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Bengal Civil Courts Act, 1871."

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhānsi Division.

Except this section and sections seventeen, twenty-nine and thirty, nothing herein contained applies to Courts of Small Causes established under Act No. XI of 1865.

This Act shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.

CHAPTER II.—*Constitution of Civil Courts.*

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may from time to time be altered, by the Local Government.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

6. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council,

make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under Chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the action of the High Court under section six, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

10. The Local Government may invest with the powers of any Court under this Act any officer in the District of Kachar and the Divisions of Assam, Chota Nagpur and Kuch Behar.

Nothing in sections three to nine (inclusive), thirty-two, thirty-three and thirty-four, applies to

any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

11. The general control over all the Civil Courts in any District is vested in the District Judge, but subject to the superintendence of the High Court.

12. The present Judges of the Zila Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

13. Every District Judge, Additional Judge, Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the following form:—

"I, A B, appointed to the office of do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B,

District [or Additional or Subordinate] Judge of [or Munsif of]"

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by an Additional Judge, a Subordinate Judge or Munsif, before the District Judge or the Magistrate of the District.

14. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

15. Every District Judge, Additional Judge, Subordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

16. The Local Government may fix, and, from time to time, alter the place or places at which any Court under this Act is to be held.

17. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official *Gazette*, and the said days shall be observed accordingly.

CHAPTER III.—*Ordinary Jurisdiction.*

18. The Local Government shall fix, and may, Power to fix local limits of jurisdiction. from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act:

Provided that where more than one Subordinate Judge is appointed to any District, and where more than one Munsif is appointed to any Munsifi, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such District or Munsifi, as the case may be.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to be fixed under this Act.

19. The jurisdiction of a District Judge or Subordinate Judge extends, Extent of original jurisdiction of District Judge or Subordinate Judge. subject to the provisions in the Code of Civil Procedure, section six, to all original suits cognizable by the Civil Courts.

20. The jurisdiction of a Munsif extends to Extent of Munsif's jurisdiction. all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand-rupees.

21. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court. Appeals from District Judge and Additional Judges.

22. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court: Appeals from Subordinate Judges and Munsifs.

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

23. Every Court under this Act may require Power to require a witness or party to any witnesses or parties to be sworn. a witness or party to any suit or proceeding pending in such Court, to take such oath as is prescribed by the law for the time being in force.

24. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished. Certain decisions to be according to Native law.

In cases not provided for by the former part of this section, or by any other law for the time being

in force, the Court shall act according to justice, equity and good conscience.

25. No Munsif, Subordinate Judge, Additional Judge or District Judge shall Judges not to try suits in which they are interested. try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.—*Special Jurisdiction.*

26. Every District Judge may, from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly. Power to refer to Subordinate Judges appeals from Munsifs.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

27. The High Court may, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure, sections thirty-six, seventy-six, eighty-five, ninety-four, one hundred and nineteen, two hundred and thirty-one and two hundred and fifty-seven, or under Act No. XXIII of 1861, section eleven. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

The High Court may also, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say),—

(1). Proceedings under Bengal Regulation V 1799 (to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of Persons dying intestate).

(2). Proceedings under Act No. XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal), or Act No. IX of 1861 (to amend the law relating to Minors).

(3). Claims to attached property under the Code of Civil Procedure, section two hundred and forty-six.

(4). Applications by judgment-debtors under section two-hundred-and-seventy-three or section two-hundred-and-eighty of the same Code.

(5). Applications to file awards under section three-hundred-and-twenty-seven of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

28. Subject to the provisions of the last clause of section twenty-seven, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

29. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

30. Section fifty-one of Act No. XI of 1865 Amendment of Act XI of 1865. (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil jurisdiction of the High Courts of Judicature*), shall be read as if for the words "Principal Sadr Amin," the words "Subordinate Judge" were substituted.

CHAPTER V.—Misfeazance.

31. Any District Judge, Additional Judge, Subordinate Judge, or Munsif may, for any misconduct, be suspended or removed by the Local Government.

32. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

33. The High Court may appoint a Commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such Commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such Commission, remove or suspend any Munsif, or reduce him to a lower grade.

34. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.—Ministerial Officers.

35. The Judges of the District Courts shall appoint the Ministerial Officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such Officers or fine them in an amount not exceeding one month's salary.

36. The Ministerial Officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

Nothing in this section or in section thirty-five shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

37. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the Ministerial Officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the Ministerial Officers of any Court under his control to any other such Court.

38. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered by deduction from the offender's salary.

SCHEDULE.

PART I.—BENGAL REGULATIONS.

Number and year.	Title.	Extent of Repeal.
III, 1793.	A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
IV, 1793.	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	Section fifteen.
VII, 1795.	A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying civil suits, in the first instance, at the City of Benares, and at Mirzapore, Ghazeepore, and Jaunpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.	So much as has not been repealed.
VIII, 1795.	A Regulation for extending to the Province of Benares, with alterations and modifications, Regulation IV, 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several zillahs, and in the cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants.	Section three.
II, 1803.	A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of civil suits in the first instance, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	So much as has not been repealed.
III, 1803.	A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several zillahs in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	Section sixteen, clause one.

PART I,—continued.

Number and year.	Title.	Extent of Repeal.
VIII, 1805.	A Regulation for extending to the conquered Provinces situated within the Dooab and on the right bank of the River Jumna, and to the Territory ceded to the Honourable the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section six and so much of section seven as extends Regulation III, 1803, section sixteen, clause one.
VII, 1832.	A Regulation for modifying certain of the Provisions of Regulation V, 1831, and for providing Supplementary Rules to that Enactment.	So much as has not been repealed.
VIII, 1833.	A Regulation for the occasional appointment of Additional Judges of the Zillah and City Courts.	The whole.

PART II.—ACTS.

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IX of 1844 ...	An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameens and Sudder Ameens.	Section three so far as it applies to the Bengal Presidency.
L of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
XVI of 1868...	An Act to consolidate and amend the law relating to Principal Sadr Amins, Sadr Amins, and Munsifs in Bengal, and for other purposes.	The whole.
II of 1870 ...	An Act to provide for the appointment of Additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

WHITLEY STOKES,

Secy. to the Govt. of India.



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the
Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March 1871, and is hereby promulgated for general information:—

ACT No. VII of 1871.

THE INDIAN EMIGRATION ACT.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO THE EMIGRATION OF NATIVE LABOURERS.

WHEREAS it is expedient to consolidate the laws relating to the Emigration of Native Labourers; It is hereby enacted as follows:—

I.—PRELIMINARY.

- Short title. 1. This Act may be called "The Indian Emigration Act, 1871."
- Local extent. It extends to the whole of British India;
- Commencement of Act. And it shall come into force on the passing thereof.
2. The Acts mentioned in the first schedule hereto annexed are repealed.
- Acts repealed. All contracts entered into, appointments made, and licenses granted, under any of the said Acts, shall be deemed to be respectively entered into, made and granted under this Act.
- Interpretation-clause. 3. In this Act—
- "Emigrate" denotes the departure of any Native of India out of British India for the purpose of labouring for hire in some other place;
- "Emigrate."
- "Emigrant." and the word "Emigrant" denotes any Native of India under engagement to emigrate:
- "Magistrate" denotes any officer exercising the full powers of a Magistrate and in charge of a District, a Division, or a Sub-Division:
- "Magistrate."
- "Vessel" includes anything made for the conveyance by water of human beings or property.
- "Vessel."

II.—EMIGRATION AGENTS.

4. The Government of every place to which emigration is lawful under this Act may, from time to time, appoint a person to act as Emigration Agent in Calcutta, Madras and Bombay respectively, but such nomination shall be subject to the approval of the Local Government.
- Appointment of Emigration Agents.
- Every Emigration Agent may be suspended or removed by the Government which appointed him.
5. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.
- Remuneration of Agents.

III.—PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

6. The Local Government may appoint a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and may with the sanction of the Governor General in Council assign to such person such salary and establishment as shall be deemed proper.
- Appointment of Protectors of Emigrants.
- Every Protector of Emigrants may be suspended or removed by the Local Government to which he is subordinate.

7. No Protector of Emigrants appointed under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.
- No Protector to hold other office without permission.

8. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with.
- General duties of Protectors of Emigrants.

He shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government,

and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

9. At each of the three ports aforesaid, the Local Government may appoint a competent person to be Medical Inspector of Emigrants; and may, with the sanction of the Governor General in Council, assign to the Medical Inspector so appointed such salary as is deemed proper.
- Appointment of Medical Inspector.

10. In each of the Towns of Calcutta, Madras and Bombay, or in the suburbs of those Towns, the Emigration Agent of every place to which emigration is lawful under this Act, shall establish a suitable dépôt for the persons engaged as labourers for such place.
- Depôts to be established in Calcutta, Madras and Bombay.

11. Every dépôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants.
- Licensing of dépôts.

No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he considers that the dépôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the dépôt was established.

For every license granted under this section there shall be paid to the Protector a fee of fifteen rupees.

12. Every Protector of Emigrants and every Medical Inspector of Emigrants shall from time to time, and at least once in every week, inspect the Emigrants in the various dépôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the dépôts, and the manner in which the Emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.
- Inspection by Protector and Medical Inspector.

13. The Medical Inspector shall report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

14. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

15. Every Emigration Agent, and all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, shall give the Protector and the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.

IV.—RECRUITERS OF LABOURERS.

16. The Protector of Emigrants at each of the three ports aforesaid, and the British Consular Agent at each of the French ports in India, shall license so many fit persons as to him seems necessary, to be Recruiters of labourers,

and no person shall act or be employed as a Recruiter of labourers except under a license from a Protector of Emigrants or British Consular Agent.

17. Every Recruiter shall be licensed to obtain labourers for some particular place to which emigration is lawful under this Act, and no license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

18. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

19. Every license shall be in the form set forth in the second schedule hereto annexed.

For every license there shall be paid to the Protector a fee of fifteen rupees.

20. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English and in the vernacular language of the Town, District or Districts in which he is licensed to engage labourers:—"Recruiter of Emigrants for the Mauritius" (or other place as the case may be).

21. No Recruiter shall engage or attempt to engage labourers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or

a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon.

Such countersignature shall be given, provided that the license is in force at the time.

V.—CONTRACTS WITH EMIGRANT LABOURERS.

22. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating:

provided that nothing in this Act shall apply—to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India;

to emigration to any such Settlement or State; to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or

to any contract with or the emigration of any Native seaman or other person who of his own free will contracts to navigate or serve on board of any vessel or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only, and who embarks as such menial servant.

23. Contracts may be made with Natives of India to emigrate—

to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts and Seychelles;

to any of the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana,

and to the Danish Colony of St. Croix; and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

24. The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in section twenty-three:

provided that every such notification contain also a declaration, that the Governor General in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of Natives of India emigrating to such place.

25. From the date of any such notification contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place;

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

26. Emigration shall not be lawful except from the port of Calcutta, the port of Madras or the port of Bombay.

From what ports emigration lawful.

VI.—REGISTRATION OF EMIGRANTS.

27. Every Native of India, who in any place other than the Towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, before leaving the District within which the engagement was entered into, appear with the Recruiter before a Magistrate, and no Recruiter shall remove such Emigrant from the said District until he has so appeared.

Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(a) the name, name of the father, and the age, of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Magistrate thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

28. Authentic copies of every such registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein has been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

29. Every Native of India, who in the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such town; and no Recruiter shall remove such Emigrant from the said town, or to any Emigration depôt, until he has so appeared.

Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(a) the name, the name of the father, and the age of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Protector of Emigrants thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

30. An authentic copy of every such registration shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein has been engaged.

31. For the registration of every Emigrant under section twenty-seven or twenty-nine, the Recruiter shall pay to the Magistrate or the Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

On proof of the desertion of any Emigrant before embarkation, the fee paid in respect of such Emigrant may be refunded by the Magistrate or the Protector to the Recruiter by whom it was paid, under such rules as are from time to time made in that behalf by the Governor General in Council.

VII.—CONVEYANCE OF EMIGRANTS TO DEPÔTS.

32. (1.) Every Emigrant recruited under the provisions of this Act shall be conveyed by land or river with all convenient despatch to the depôt, at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

(2.) The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

(3.) Every Recruiter by or through whom Emigrants may be forwarded to a depôt shall, throughout their journey, provide them with suitable lodging and food.

VIII.—ARRIVAL AT DEPÔTS AND PROCEDURE THEREON.

33. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

34. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be shewn to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed.

The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

35. If the Medical Inspector certifies that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed,

or if any irregularity has occurred in the recruitment of any Emigrant,

the Protector of Emigrants may order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the labourer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the labourer to such place.

36. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to or on behalf of the Emigrant.

Every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it is paid, as money paid to the use of such Emigration Agent.

No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay such money, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith.

Provided that every Emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector otherwise orders.

37. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt.

The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid,

examine the copy of the registration furnished to the Emigrant under section twenty-seven or section twenty-nine. If for any reason further enquiry be necessary, such enquiry shall be made forthwith.

Unless the Emigration Agent, with the consent of the Protector, refuses to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under section twenty-seven, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under section twenty-nine shall be countersigned by the Emigration Agent alone. The copy so countersigned, under whichever section it may have been furnished, shall be delivered back to the Emigrant.

If the Emigration Agent, without the consent of the Protector, refuses to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the Emigrant to return to the place where he was registered.

On failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant. All the provisions of section thirty-six as to sums paid by the Protector shall apply, so far as the circumstances of the case permit, to sums paid by him under this section.

The Protector shall also, in every case in which it seems to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent.

In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

38. After the examination mentioned in section thirty-seven, and if the Medical Inspector has given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and the age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

39. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under sections thirty-seven and thirty-eight, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make.

If such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the pass delivered by the Emigration Agent.

IX.—EMIGRANT VESSELS.

40. (1.) It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel has been obtained from the Local Government. The granting or withholding any such license shall be in the discretion of the Local Government.

(2.) The Master or owner of any vessel who desires to obtain a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

(3.) Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

(4.) The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

(5.) The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

(6.) In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The Protector of Emigrants shall require the Master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the Emigrants are to be carried (or in the case of a French colony to the British Consular Agent at such colony) and the other copy of it to the Local Government.

41. (1.) No certificate under section forty shall be granted, unless there be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

(2.) No compartment shall take more than one adult Emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3.) A distinct and separate place shall be fitted up for a hospital in every Emigrant vessel.

(4.) Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5.) An Emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

42. (1.) There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which they embark,

(a.) good and wholesome provisions for the use and consumption of the said Emigrants (over and above the victualling of the Captain, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor General in Council under section fifty-six,

(b.) fuel for cooking such provisions, and

(c.) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every Emigrant on board such vessel. Such water shall be carried in tanks to be approved by the Protector of Emigrants.

(2.) Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under section fifty-six.

(3.) When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable length of the voyage to such port or place shall be deemed to be a compliance with this section.

The probable length of the voyage to such port or place shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

(4.) When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

(5.) The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of this section are complied with.

43. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.

Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.

44. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, the Master of such vessel shall obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates, under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions herein contained for ensuring the health, comfort and safety of the Emigrants have been duly complied with, as well as all such rules as the Governor General in Council from time to time frames under section fifty-six.

X.—EMBARKATION.

45. If any Emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere: but nothing in this section shall diminish or affect the civil or criminal liabilities, which such Emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Every case in which an Emigrant is charged before a Magistrate of Police in a Presidency Town with refusing or neglecting to embark without sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such labourer shall, on conviction, be punished in the manner provided in section four hundred and ninety-two of the Indian Penal Code for the punishment of offences under that section.

46. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration is lawful under this Act, at all times of the year.

For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year.

Provided that, in cases of emergency, the Local Government may permit Emigrants for any place West of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.

47. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

If the Protector of Emigrants is of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such emigrant may, notwithstanding anything herein contained, refuse to embark.

The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that he has in his possession the copy of the registration provided under section twenty-seven or section twenty-nine.

If it appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost such copy, the Protector may furnish such Emigrant with another copy of such registration, to be made from the copy received by the Protector from the Magistrate under section twenty-seven or from the Register kept by himself under section twenty-nine, and shall thereupon allow such Emigrant to embark.

48. The Protector of Emigrants shall explain to all Emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such Emigrants.

49. (1.) When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

(2.) On embarkation, every Emigrant shall deliver to the Master of the vessel the pass granted to him under section thirty-eight; and the Master shall not receive any Emigrant on board unless he delivers up such pass. The Master shall compare the Emigrants who embark and the passes delivered by them with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

(3.) The Protector of Emigrants shall be personally present at the embarkation of all Emigrants, and shall see that the Master duly compares the list with the passes and Emigrants, and he shall himself also compare the list with the passes and Emigrants.

(4.) The Medical Inspector shall also be personally present at the embarkation of all Emigrants and shall examine each Emigrant to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of sections thirty-four, thirty-five and thirty-six shall apply, *mutatis mutandis*, to Emigrants examined under this clause.

(5.) When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes

them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the office of the Protector of Emigrants.

(6.) The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

(7.) Every pass delivered up to the Master of a vessel under this section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

50. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of Emigrants mentioned in section forty-nine, duly signed by the Master.

The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper officer, at such place.

51. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the passes of the Emigrants and from the list signed by the Master as aforesaid.

52. The Master of every vessel carrying Emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

53. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.

54. Two copies of this Act and of all rules made by the Governor General in Council under section fifty-six, and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies or translations shall, upon request made at any reasonable time to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

55. In case of sickness breaking out on board of any vessel conveying Emigrants to Seychelles, such Emigrants may be taken to the quarantine-station of Mauritius.

In such case the Emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.

XI.—SUPPLEMENTARY POWERS.

56. The Governor General in Council may from time to time make rules consistent with this Act,—

(1.) To regulate the proportion of women to be taken with Emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2.) To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

(3.) To provide for the medical care of Emigrants during their residence at the depôts and on their voyages;

(4.) To prescribe the nature, quality and quantity of medical drugs and other stores to be carried on board such vessels;

(5.) To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6.) To provide for a journal being kept, by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

(7.) And generally to provide for the security, well-being, and protection of Emigrants.

All such rules shall be published in the *Gazette of India* and shall have effect as if they were contained in this Act.

Provided that, in cases of emergency, the Local Government may permit any vessel carrying Emigrants to leave port although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.

57. Whenever the Governor General in Council has reason to believe that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage, the Governor General in Council may, by notification

published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

58. After any notification has been published under section fifty-seven, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

59. During the time of such suspension any provisions of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British territories in India, shall take effect so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

60. Whenever the Governor General in Council is satisfied that, in the place specified in any notification under section fifty-seven, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such Emigrants at or about the time at which they are entitled to such return-passages, the Governor General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification.

Thereupon all the provisions of this Act authorizing emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

61. Whenever the Governor General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage,

the Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor General in Council under this section may be cancelled by notification in the *Gazette of India*.

Any notification issued by the Local Government under this section may be cancelled by order of the Governor General in Council, or by the Local Government.

62. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, increase any fee payable under sections eleven, nineteen and thirty-one and may also in like manner reduce to its present amount any fee so increased:

Provided that no fee shall be increased under this section by more than double such amount.

XII.—SPECIAL PROVISIONS AS TO FRENCH COLONIES.

63. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras and Bombay. Provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.

64. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

65. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and the advantages afforded to the Emigration Agents for British Colonies.

66. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of labourers emigrating under the provisions of this Part of this Act.

In French Ports in India the duty imposed on the British Consular Agents by Article V of the Convention printed in the third schedule hereto annexed shall be performed under such instructions as may be given by the Governor General in Council in this behalf.

67. All contracts of service made with labourers emigrating to French Colonies under this Act, except the contracts mentioned in clause four of Article IX and clause two of Article X of the said Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he is allotted by the proper authority on his arrival in the Colony to which he emigrates.

68. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—
 Matters to be provided for in contract.

(1.) The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which he may abandon or renounce his right to a free return-passage.

(2.) The number of days and hours of work.

(3.) The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

(4.) Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness has arisen from his own misconduct.

(5.) In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the said Convention.

69. The Governor General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the said Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony.
 Power to extend Act to French Colonies not expressly named.

Such declaration shall have the same effect as if it formed part of this section.

70. Every Emigrant vessel sailing to a French Colony shall carry an European Surgeon and an Interpreter.
 Emigrant vessel to carry European Surgeon and Interpreter.

XIII.—PENALTIES.

71. Whoever, except under and in conformity with the provisions of this Act, makes any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, shall be deemed to have committed the offence specified in section three hundred and sixty-three of the Indian Penal Code;
 For making unlawful contract of labour.

And whoever knowingly enables or assists any Native of India to emigrate to any such place, or aids in or abets the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

72. Whoever, not being a Recruiter duly licensed under this Act, acts or is employed as a Recruiter of labourers, or contrary to the provisions of this Act, enters into any contract with a Native of India for labour to be performed by such Native in any place beyond British India, shall be liable to a fine not exceeding five hundred rupees.
 For recruiting without being licensed.

73. Whoever, being a duly licensed Recruiter, removes any Emigrant whom he may engage in any district or place other than the towns of Calcutta, Madras or Bombay, from such district or place, without such
 For Recruiter failing to take engaged labourers before Magistrate or Protector.

Emigrant having appeared along with the Recruiter before a Magistrate in order that the Emigrant might be examined and registered;

and whoever removes any Emigrant whom he may engage in any one of the towns of Calcutta, Madras or Bombay, from such town, or to an emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that the Emigrant might be examined and registered;

and whoever by means of intoxication, violence, fraud, or false pretences inducing any Native of India to enter into a contract for labour to be performed by him in any place to which emigration is lawful under this Act, or to proceed to any such place without having entered into any contract;

and whoever fails to supply any Emigrant whom he has engaged, and who is registered, with suitable food, or otherwise ill-treats such Emigrant on his journey to the depôt;

and whoever forwards, sends or conveys any such Emigrant otherwise than is provided in section thirty-two, or to any house or place in or near the Towns of Calcutta, Madras or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant has contracted to labour,

shall be liable to a fine not exceeding five hundred rupees.

74. Whoever, being a duly licensed Recruiter, forwards or sends any Emigrant from the district or town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of sections twenty-seven and twenty-nine;

and whoever, being a duly licensed Recruiter, induces or knowingly permits any such Emigrant to leave such district or town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid,

shall be liable to a fine not exceeding five hundred rupees.

75. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or falsely represents that such labourers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred rupees.
 For false representation of Government authority.

76. The Master of any vessel which has not been licensed as provided in section forty, knowingly receiving any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.
 For receiving Emigrants in an unlicensed vessel.

77. If the Master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any Emigrant without having fully complied with every particular required in sections forty-one and forty-two, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

78. If the Master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in sections forty-nine and fifty, and in the manner in those sections prescribed, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

79. If after having obtained a certificate in accordance with the provisions of section forty, the Master of any vessel cleared for any place to which emigration is lawful under this Act, fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding five thousand rupees, and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally described.

80. If the Master of a vessel sailing from the port of Calcutta, licensed under section forty and sailing with Emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed any part of the distance between Garden Reach and sea, without his vessel being under tow of a competent steamer, or if such vessel has not left Garden Reach and proceeded on her voyage within the time prescribed in section fifty-two,

the Master of such vessel shall be liable to a fine not exceeding one thousand rupees.

81. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.

82. All prosecutions under this Act shall be instituted on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before a Magistrate, according as they shall be instituted for offences committed within or for

offences committed beyond the limits of the towns of Calcutta, Madras and Bombay.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

XIV.—MISCELLANEOUS.

83. The probable length of the voyages to the places mentioned in section twenty-three, from Calcutta, Madras or Bombay respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

FROM CALCUTTA:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, ten weeks; and between the months of November and March inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix, Martinique, Guadeloupe and its dependencies	...	Twenty weeks.
To French Guiana	...	Twenty-six weeks.
To Natal	...	Twelve weeks.

FROM MADRAS:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

FROM BOMBAY:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

In the case of vessels propelled either wholly or in part by steam the Local Government may, by

own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labour-regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the first of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

Nevertheless the Governor General of British India in Council shall, in conformity with the Act of the 19th of September, 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the emigrants immediately upon their arrival or during their residence therein, or for their safe return to India, or to

provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage.

In case, however, the power thus reserved to the Governor General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favour of the said Indian subjects, until they shall either have been sent back to their own country, or have renounced their right to a return-passage to India.

ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st day of July, in the year of our Lord one thousand eight hundred and sixty-one.

(L. S.) COWLEY.

(L. S.) THOUVENEL.

*ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Réunion, that Colony has, since last year, had to obtain labourers from India and China; and Her Britannic Majesty having, by a Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Réunion to recruit six thousand labourers in her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith, with regard to the said Colony of Réunion.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st of July 1861.

(L. S.) COWLEY.

(L. S.) THOUVENEL.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

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CALCUTTA, SATURDAY, MARCH 18, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March 1871, and is hereby promulgated for general information:—

ACT No. VII OF 1871.

THE INDIAN EMIGRATION ACT.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO THE EMIGRATION OF NATIVE LABOURERS.

WHEREAS it is expedient to consolidate the laws relating to the Emigration of Native Labourers; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Indian Emigration Act, 1871."

Local extent. It extends to the whole of British India;

Commencement of Act. And it shall come into force on the passing thereof.

2. The Acts mentioned in the first schedule hereto annexed are repealed. All contracts entered into, appointments made, and licenses granted, under any of the said Acts, shall be deemed to be respectively entered into, made and granted under this Act.

Interpretation-clause. 3. In this Act—

"Emigrate" denotes the departure of any Native of India out of British India for the purpose of labouring for hire in some other place; and the word "Emigrant" denotes any Native of India under engagement to emigrate:

"Magistrate" denotes any officer exercising the full powers of a Magistrate and in charge of a District, a Division, or a Sub-Division:

"Vessel" includes anything made for the conveyance by water of human beings or property.

II.—EMIGRATION AGENTS.

4. The Government of every place to which emigration is lawful under this Act may, from time to time, appoint a person to act as Emigration Agent in Calcutta, Madras and Bombay respectively, but such nomination shall be subject to the approval of the Local Government.

Every Emigration Agent may be suspended or removed by the Government which appointed him.

5. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

III.—PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

6. The Local Government may appoint a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and may with the sanction of the Governor General in Council assign to such person such salary and establishment as shall be deemed proper.

Every Protector of Emigrants may be suspended or removed by the Local Government to which he is subordinate.

7. No Protector of Emigrants appointed under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.

8. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with.

He shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government,

and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

9. At each of the three ports aforesaid, the Local Government may appoint a competent person to be Medical Inspector of Emigrants; and may, with the sanction of the Governor General in Council, assign to the Medical Inspector so appointed such salary as is deemed proper.

10. In each of the Towns of Calcutta, Madras and Bombay, or in the suburbs of those Towns, the Emigration Agent of every place to which emigration is lawful under this Act, shall establish a suitable dépôt for the persons engaged as labourers for such place.

11. Every dépôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants.

No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he considers that the dépôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the dépôt was established.

For every license granted under this section there shall be paid to the Protector a fee of fifteen rupees.

12. Every Protector of Emigrants and every Medical Inspector of Emigrants shall from time to time, and at least once in every week, inspect the Emigrants in the various dépôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the dépôts, and the manner in which the Emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

13. The Medical Inspector shall report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

14. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

15. Every Emigration Agent, and all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, shall give the Protector and the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.

IV.—RECRUITERS OF EMIGRANTS.

16. The Protector of Emigrants at each of the three ports aforesaid, and the British Consular Agent at each of the French ports in India, shall license so many fit persons as to him seems necessary, to be Recruiters of labourers,

and no person shall act or be employed as a Recruiter of labourers except under a license from a Protector of Emigrants or British Consular Agent.

17. Every Recruiter shall be licensed to obtain labourers for some particular place to which emigration is lawful under this Act, and no license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

18. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

19. Every license shall be in the form set forth in the second schedule hereto annexed.

For every license there shall be paid to the Protector a fee of fifteen rupees.

20. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English and in the vernacular language of the Town, District or Districts in which he is licensed to engage labourers:—"Recruiter of Emigrants for the Mauritius" (or other place as the case may be).

21. No Recruiter shall engage or attempt to engage labourers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or

a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon.

Such countersignature shall be given, provided that the license is in force at the time.

V.—CONTRACTS WITH EMIGRANTS.

22. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating:

provided that nothing in this Act shall apply—
to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India;

to emigration to any such Settlement or State;
to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or

to any contract with or the emigration of any Native seaman or other person who of his own free will contracts to navigate or serve on board of any vessel or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only, and who embarks as such menial servant.

23. Contracts may be made with Natives of India to which contracts may be made with Natives.

to emigrate—
to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts and Seychelles;

to any of the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana,

and to the Danish Colony of St. Croix;
and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

24. The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in section twenty-three:

provided that every such notification contain also a declaration, that the Governor General in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of Natives of India emigrating to such place.

25. From the date of any such notification contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place;

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

26. Emigration shall not be lawful except from the port of Calcutta, the port of Madras or the port of Bombay.

From what ports emigration lawful.

VI.—REGISTRATION OF EMIGRANTS.

27. Every Native of India, who in any place other than the Towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, before leaving the District within which the engagement was entered into, appear with the Recruiter before a Magistrate, and no Recruiter shall remove such Emigrant from the said District until he has so appeared.

Natives engaging to emigrate to appear before Magistrate.

Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

Examination and registration.

(a) the name, name of the father, and the age, of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Magistrate thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

28. Authentic copies of every such registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein has been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Copy of registration to be sent to Emigration Agent and Protector.

29. Every Native of India, who in the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such town; and no Recruiter shall remove such Emigrant from the said town, or to any Emigration depôt, until he has so appeared.

Registration of Emigrants recruited in presidency towns.

Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(a) the name, the name of the father, and the age of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Protector of Emigrants thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

30. An authentic copy of every such registration shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein has been engaged.

Copy of registration by Protector to be forwarded to Agent.

31. For the registration of every Emigrant under section twenty-seven or twenty-nine, the Recruiter shall pay to the Magistrate or the Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

Fee for registration by Protector.

On proof of the desertion of any Emigrant before embarkation, the fee paid in respect of such Emigrant may be refunded by the Magistrate or the Protector to the Recruiter by whom it was paid, under such rules as are from time to time made in that behalf by the Governor General in Council.

VII.—CONVEYANCE OF EMIGRANTS TO DEPÔTS.

32. (1.) Every Emigrant recruited under the provisions of this Act shall be conveyed by land or river with all convenient despatch to the depôt, at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Conveyance of Emigrant to depôt.

(2.) The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Emigrants to be accompanied by Recruiter.

(3.) Every Recruiter by or through whom Emigrants may be forwarded to a depôt shall, throughout their journey, provide them with suitable lodging and food.

Recruiter to provide suitable food and lodging.

VIII.—ARRIVAL AT DEPÔTS AND PROCEDURE THEREON.

33. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depôt to be reported.

34. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be shewn to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed.

The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent; if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

35. If the Medical Inspector certifies that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed,

or if any irregularity has occurred in the recruitment of any Emigrant,

the Protector of Emigrants may order the Emigration Agent in whose dépôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the labourer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the labourer to such place.

36. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to or on behalf of the Emigrant.

Every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it is paid, as money paid to the use of such Emigration Agent.

No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay such money, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith.

Provided that every Emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the dépôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector otherwise orders.

37. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the dépôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the dépôt.

The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid,

examine the copy of the registration furnished to the Emigrant under section twenty-seven or section twenty-nine. If for any reason further enquiry be necessary, such enquiry shall be made forthwith.

Unless the Emigration Agent, with the consent of the Protector, refuses to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under section twenty-seven, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under section twenty-nine shall be countersigned by the Emigration Agent alone. The copy so countersigned, under whichever section it may have been furnished, shall be delivered back to the Emigrant.

If the Emigration Agent, without the consent of the Protector, refuses to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the Emigrant to return to the place where he was registered. On failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant. All the provisions of section thirty-six as to sums paid by the Protector shall apply, so far as the circumstances of the case permit, to sums paid by him under this section.

The Protector shall also, in every case in which it seems to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent.

In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

38. After the examination mentioned in section thirty-seven, and if the Medical Inspector has given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and the age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

39. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under sections thirty-seven and thirty-eight, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make.

If such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the pass delivered by the Emigration Agent.

IX.—EMIGRANT VESSELS.

40. (1.) It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel has been obtained from the Local Government. The granting or withholding any such license shall be in the discretion of the Local Government.

(2.) The Master or owner of any vessel who desires to obtain a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

(3.) Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

(4.) The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

(5.) The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

(6.) In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The Protector of Emigrants shall require the Master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the Emigrants are to be carried (or in the case of a French colony to the British Consular Agent at such colony) and the other copy of it to the Local Government.

41. (1.) No certificate under section forty shall be granted, unless there be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

(2.) No compartment shall take more than one adult Emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3.) A distinct and separate place shall be fitted up for a hospital in every Emigrant vessel.

(4.) Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5.) An Emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

42. (1.) There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which they embark,

(a.) good and wholesome provisions for the use and consumption of the said Emigrants (over and above the victualling of the Captain, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor General in Council under section fifty-six,

(b.) fuel for cooking such provisions, and

(c.) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every Emigrant on board such vessel. Such water shall be carried in tanks to be approved by the Protector of Emigrants.

(2.) Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under section fifty-six.

(3.) When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable length of the voyage to such port or place shall be deemed to be a compliance with this section.

The probable length of the voyage to such port or place shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

(4.) When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

(5.) The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of this section are complied with.

43. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.

Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.

44. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, the Master of such vessel shall obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates, under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions herein contained for ensuring the health, comfort and safety of the Emigrants have been duly complied with, as well as all such rules as the Governor General in Council from time to time frames under section fifty-six.

X.—EMBARKATION.

45. If any Emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board ship against his will, or to detain him against his will at the dépôt or elsewhere: but nothing in this section shall diminish or affect the civil or criminal liabilities, which such Emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Every case in which an Emigrant is charged before a Magistrate of Police in a Presidency Town with refusing or neglecting to embark without sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such labourer shall, on conviction, be punished in the manner provided in section four hundred and ninety-two of the Indian Penal Code for the punishment of offences under that section.

46. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration is lawful under this Act, at all times of the year.

For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year.

Provided that, in cases of emergency, the Local Government may permit Emigrants for any place West of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.

47. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

If the Protector of Emigrants is of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such emigrant may, notwithstanding anything herein contained, refuse to embark.

The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that he has in his possession the copy of the registration provided under section twenty-seven or section twenty-nine.

If it appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost such copy, the Protector may furnish such Emigrant with another copy of such registration, to be made from the copy received by the Protector from the Magistrate under section twenty-seven or from the Register kept by himself under section twenty-nine, and shall thereupon allow such Emigrant to embark.

48. The Protector of Emigrants shall explain to all Emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such Emigrants.

49. (1.) When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

(2.) On embarkation, every Emigrant shall deliver to the Master of the vessel the pass granted to him under section thirty-eight; and the Master shall not receive any Emigrant on board unless he delivers up such pass. The Master shall compare the Emigrants who embark and the passes delivered by them with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

(3.) The Protector of Emigrants shall be personally present at the embarkation of all Emigrants, and shall see that the Master duly compares the list with the passes and Emigrants, and he shall himself also compare the list with the passes and Emigrants.

(4.) The Medical Inspector shall also be personally present at the embarkation of all Emigrants and shall examine each Emigrant to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of sections thirty-four, thirty-five and thirty-six shall apply, *mutatis mutandis*, to Emigrants examined under this clause.

(5.) When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes

them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the office of the Protector of Emigrants.

(6.) The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

(7.) Every pass delivered up to the Master of a vessel under this section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

50. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of Emigrants mentioned in section forty-nine, duly signed by the Master.

The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper officer, at such place.

51. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the passes of the Emigrants and from the list signed by the Master as aforesaid.

52. The Master of every vessel carrying Emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

53. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.

54. Two copies of this Act and of all rules made by the Governor General in Council under section fifty-six, and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies or translations shall, upon request made at any reasonable time to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

55. In case of sickness breaking out on board of any vessel conveying Emigrants to Seychelles, such Emigrants may be taken to the quarantine-station of Mauritius.

In such case the Emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.

XI.—SUPPLEMENTARY POWERS.

56. The Governor General in Council may from time to time make rules consistent with this Act,—

(1.) To regulate the proportion of women to be taken with Emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2.) To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

(3.) To provide for the medical care of Emigrants during their residence at the depôts and on their voyages;

(4.) To prescribe the nature, quality and quantity of medical drugs and other stores to be carried on board such vessels;

(5.) To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6.) To provide for a journal being kept, by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

(7.) And generally to provide for the security, well-being, and protection of Emigrants.

All such rules shall be published in the *Gazette of India* and shall have effect as if they were contained in this Act.

Provided that, in cases of emergency, the Local Government may permit any vessel carrying Emigrants to leave port although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.

57. Whenever the Governor General in Council has reason to believe that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage, the Governor General in Council may, by notification

published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

58. After any notification has been published under section fifty-seven, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

59. During the time of such suspension any provisions of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British territories in India, shall take effect so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

60. Whenever the Governor General in Council is satisfied that, in the place specified in any notification under section fifty-seven, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such Emigrants at or about the time at which they are entitled to such return-passages, the Governor General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification.

Thereupon all the provisions of this Act authorizing emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

61. Whenever the Governor General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage,

the Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor General in Council under this section may be cancelled by notification in the *Gazette of India*.

Any notification issued by the Local Government under this section may be cancelled by order of the Governor General in Council, or by the Local Government.

62. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, increase any fee payable under sections eleven, nineteen and thirty-one and may also in like manner reduce to its present amount any fee so increased:

Provided that no fee shall be increased under this section by more than double such amount.

XII.—SPECIAL PROVISIONS AS TO FRENCH COLONIES.

63. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras and Bombay. Provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.

64. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

65. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and the advantages afforded to the Emigration Agents for British Colonies.

66. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of labourers emigrating under the provisions of this Part of this Act.

In French Ports in India the duty imposed on the British Consular Agents by Article V of the Convention printed in the third schedule hereto annexed shall be performed under such instructions as may be given by the Governor General in Council in this behalf.

67. All contracts of service made with labourers emigrating to French Colonies under this Act, except the contracts mentioned in clause four of Article IX and clause two of Article X of the said Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he is allotted by the proper authority on his arrival in the Colony to which he emigrates.

68. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

Matters to be provided for in contract.

(1.) The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which he may abandon or renounce his right to a free return-passage.

(2.) The number of days and hours of work.

(3.) The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

(4.) Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness has arisen from his own misconduct.

(5.) In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the said Convention.

69. The Governor General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the said Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony.

Such declaration shall have the same effect as if it formed part of this section.

70. Every Emigrant vessel sailing to a French Colony shall carry an European Surgeon and an Interpreter.

Emigrant vessel to carry European Surgeon and Interpreter.

XIII.—PENALTIES.

71. Whoever, except under and in conformity with the provisions of this Act, makes any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, shall be deemed to have committed the offence specified in section three hundred and sixty-three of the Indian Penal Code;

And whoever knowingly enables or assists any Native of India to emigrate to any such place, or aids in or abets the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

72. Whoever, not being a Recruiter duly licensed under this Act, acts or is employed as a Recruiter of labourers, or contrary to the provisions of this Act, enters into any contract with a Native of India for labour to be performed by such Native in any place beyond British India, shall be liable to a fine not exceeding five hundred rupees.

73. Whoever, being a duly licensed Recruiter, removes any Emigrant whom he may engage in any district or place other than the towns of Calcutta, Madras or Bombay, from such district or place, without such

For Recruiter failing to take engaged labourers before Magistrate or Protector.

Emigrant having appeared along with the Recruiter before a Magistrate in order that the Emigrant might be examined and registered;

and whoever removes any Emigrant whom he may engage in any one of the towns of Calcutta, Madras or Bombay, from such town, or to an emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that the Emigrant might be examined and registered;

and whoever by means of intoxication, violence, fraud, or false pretences induces any Native of India to enter into a contract for labour to be performed by him in any place to which emigration is lawful under this Act, or to proceed to any such place without having entered into any contract;

and whoever fails to supply any Emigrant whom he has engaged, and who is registered, with suitable food, or otherwise ill-treats such Emigrant on his journey to the depôt;

and whoever forwards, sends or conveys any such Emigrant otherwise than is provided in section thirty-two, or to any house or place in or near the Towns of Calcutta, Madras or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant has contracted to labour,

shall be liable to a fine not exceeding five hundred rupees.

74. Whoever, being a duly licensed Recruiter, forwards or sends any Emigrant from the district or town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of sections twenty-seven and twenty-nine;

and whoever, being a duly licensed Recruiter, induces or knowingly permits any such Emigrant to leave such district or town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid,

shall be liable to a fine not exceeding five hundred rupees.

75. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or falsely represents that such labourers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred rupees.

76. The Master of any vessel which has not been licensed as provided in section forty, knowingly receiving any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

For receiving Emigrants in an unlicensed vessel.

77. If the Master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any Emigrant without having fully complied with every particular required in sections forty-one and forty-two, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

78. If the Master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in sections forty-nine and fifty, and in the manner in those sections prescribed, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

79. If after having obtained a certificate in accordance with the provisions of section forty, the Master of any vessel cleared for any place to which emigration is lawful under this Act, fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding five thousand rupees, and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally described.

80. If the Master of a vessel sailing from the port of Calcutta, licensed under section forty and sailing with Emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed any part of the distance between Garden Reach and sea, without his vessel being under tow of a competent steamer, or if such vessel has not left Garden Reach and proceeded on her voyage within the time prescribed in section fifty-two,

the Master of such vessel shall be liable to a fine not exceeding one thousand rupees.

81. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.

82. All prosecutions under this Act shall be instituted on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before a Magistrate, according as they shall be instituted for offences committed within or for

offences committed beyond the limits of the towns of Calcutta, Madras and Bombay.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

XIV.—MISCELLANEOUS.

83. The probable length of the voyages to the places mentioned in section twenty-three, from Calcutta, Madras or Bombay respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

FROM CALCUTTA:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, ten weeks; and between the months of November and March inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix, Martinique, Guadeloupe and its dependencies	...	Twenty weeks.
To French Guiana	...	Twenty-six weeks.
To Natal	...	Twelve weeks.

FROM MADRAS:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

FROM BOMBAY:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

In the case of vessels propelled either wholly or in part by steam the Local Government may, by

notification in the *Official Gazette*, fix, for the purposes of this Act, the probable length of the voyages aforesaid.

84. Every notification under section twenty-four shall state the probable length of the voyages from Calcutta, Madras and Bombay, respectively, to every place to which emigration is thereby authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

85. The Local Government may from time to time authorize any person invested with the powers of a Magistrate, as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District.

Every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate."

86. Nothing in this Act or in any rule to be made by the Governor General in Council under section sixty-one shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

THE FIRST SCHEDULE.

(See section 2.)

Number and year.	Title.
XLVI of 1860..	To authorize and regulate the Emigration of Native Labourers to the French Colonies.
VII of 1862 ...	To amend Act XLVI of 1860 (to authorize and regulate the Emigration of Native Labourers to the French Colonies.)
XIII of 1864 ...	To consolidate and amend the laws relating to the Emigration of Native Labourers.
VI of 1869 ...	To amend the law relating to the Emigration of Native Labourers.
VI of 1870 ...	To enable the Governor General in Council to increase the fee payable under section thirty-one of the Emigration Act.

THE SECOND SCHEDULE.

(See section 19.)

Office of the Protector of Emigrants at the Port of A B is hereby licensed under the Indian Emigration Act, 1871, to be a Recruiter for engaging persons to proceed to for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the day of

(Signed) C. D.,

Protector of Emigrants.

THE THIRD SCHEDULE.

(See sections 66, 67 and 68.)

Convention between Her Majesty and the Emperor of the French relative to the Emigration of Labourers from India to the French Colonies, with an additional article thereto annexed.

Signed at Paris, July 1861.

[Ratifications exchanged at Paris, July 30th, 1861.]

His Majesty the Emperor of the French having made known, by a declaration dated this day (1st July 1861) his resolution to put an end to the recruitment upon the coast of Africa of negro labourers by means of redemption; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland desiring, in consequence, to facilitate the immigration of free labourers into the French Colonies, their said Majesties have resolved to conclude a Convention destined to regulate the recruitment of such labourers in the British territories in India. For this purpose they have named as their Plenipotentiaries:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Most Honourable Henry Richard Charles Earl Cowley, Her Majesty's Ambassador Extraordinary and Plenipotentiary to the Emperor of the French;

And His Majesty the Emperor of the French, M. Edouard Antoine Thouvenel, Senator, His Minister and Secretary of State for the Department of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in due form, have agreed upon the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage labourers for the French Colonies in the Indian Territories belonging to Great Britain, and embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall entrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British Colonies.

ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the Recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself, either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by section 4 of Article IX, and by section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for:—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India

at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the present Convention.

ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the labourer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the depôts, or other place in which they may be lodged, in order to communicate with the British Agents, who, on their part, may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the first of August to the fifteenth of March. This arrangement applies only to sailing vessels; vessels using steam-power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the first of March and the fifteenth of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by

the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, cabins on the upper deck or in firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of labourers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their

own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labour regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Ré-union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the first of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

Nevertheless the Governor General of British India in Council shall, in conformity with the Act of the 19th of September, 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the emigrants immediately upon their arrival or during their residence therein, or for their safe return to India, or to

provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage.

In case, however, the power thus reserved to the Governor General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favour of the said Indian subjects, until they shall either have been sent back to their own country, or have renounced their right to a return-passage to India.

ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st day of July, in the year of our Lord one thousand eight hundred and sixty-one.

(L. s.) COWLEY.

(L. s.) THOUVENEL.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Réunion, that Colony has, since last year, had to obtain labourers from India and China; and Her Britannic Majesty having, by a Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Réunion to recruit six thousand labourers in her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith, with regard to the said Colony of Réunion.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st of July 1861.

(L. s.) COWLEY.

(L. s.) THOUVENEL.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 25, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General in Council assented to by the
Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March 1871, and is hereby promulgated for general information :—

ACT No. VII of 1871.

THE INDIAN EMIGRATION ACT.

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AN ACT TO CONSOLIDATE THE LAWS RELATING TO THE EMIGRATION OF NATIVE LABOURERS.

WHEREAS it is expedient to consolidate the laws relating to the Emigration of Native Labourers; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Indian Emigration Act, 1871."
- It extends to the whole of British India;
- And it shall come into force on the passing thereof.
2. The Acts mentioned in the first schedule hereto annexed are repealed. All contracts entered into, appointments made, and licenses granted, under any of the said Acts, shall be deemed to be respectively entered into, made and granted under this Act.
3. In this Act—
 "Emigrate" denotes the departure of any Native of India out of British India for the purpose of labouring for hire in some other place;
 "Emigrant" denotes any Native of India under engagement to emigrate;
 "Magistrate" denotes any officer exercising the full powers of a Magistrate and in charge of a District, a Division, or a Sub-Division;
 "Vessel" includes anything made for the conveyance by water of human beings or property.

II.—EMIGRATION AGENTS.

4. The Government of every place to which emigration is lawful under this Act may, from time to time, appoint a person to act as Emigration Agent in Calcutta, Madras and Bombay respectively, but such nomination shall be subject to the approval of the Local Government.
- Every Emigration Agent may be suspended or removed by the Government which appointed him.
5. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

III.—PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

6. The Local Government may appoint a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and may with the sanction of the Governor General in Council assign to such person such salary and establishment as shall be deemed proper.

Every Protector of Emigrants may be suspended or removed by the Local Government to which he is subordinate.

7. No Protector of Emigrants appointed under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.

8. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with.

He shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government,

and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

9. At each of the three ports aforesaid, the Local Government may appoint a competent person to be Medical Inspector of Emigrants; and may, with the sanction of the Governor General in Council, assign to the Medical Inspector so appointed such salary as is deemed proper.

10. In each of the Towns of Calcutta, Madras, and Bombay, or in the suburbs of those Towns, the Emigration Agent of every place to which emigration is lawful under this Act, shall establish a suitable dépôt for the persons engaged as labourers for such place.

11. Every dépôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants.

No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he considers that the dépôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the dépôt was established.

For every license granted under this section there shall be paid to the Protector a fee of fifteen rupees.

12. Every Protector of Emigrants and every Medical Inspector of Emigrants shall from time to time, and at least once in every week, inspect the Emigrants in the various dépôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the dépôts, and the manner in which the Emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

13. The Medical Inspector shall report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

14. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

15. Every Emigration Agent, and all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, shall give the Protector and the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.

IV.—RECRUITERS OF EMIGRANTS.

16. The Protector of Emigrants at each of the three ports aforesaid, and the British Consular Agent at each of the French ports in India, shall license so many fit persons as to him seems necessary, to be Recruiters of labourers,

and no person shall act or be employed as a Recruiter of labourers except under a license from a Protector of Emigrants or British Consular Agent.

17. Every Recruiter shall be licensed to obtain labourers for some particular place to which emigration is lawful under this Act, and no license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

18. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

19. Every license shall be in the form set forth in the second schedule hereto annexed.

For every license there shall be paid to the Protector a fee of fifteen rupees.

20. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English and in the vernacular language of the Town, District or Districts in which he is licensed to engage labourers:—"Recruiter of Emigrants for the Mauritius" (or other place as the case may be).

21. No Recruiter shall engage or attempt to engage labourers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or

a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

V.—CONTRACTS WITH EMIGRANTS.

22. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating:

provided that nothing in this Act shall apply—to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India;

to emigration to any such Settlement or State; to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or

to any contract with or the emigration of any Native seaman or other person who of his own free will contracts to navigate or serve on board of any vessel or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only, and who embarks as such menial servant.

23. Contracts may be made with Natives of India to emigrate—

to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts and Seychelles;

to any of the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana,

and to the Danish Colony of St. Croix;

and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

24. The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in section twenty-three:

provided that every such notification contain also a declaration, that the Governor General in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of Natives of India emigrating to such place.

25. From the date of any such notification contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place;

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

26. Emigration shall not be lawful except from the port of Calcutta, the port of Madras or the port of Bombay.

From what ports emigration lawful.

VI.—REGISTRATION OF EMIGRANTS.

27. Every Native of India, who in any place other than the Towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, before leaving the

Natives engaging to emigrate to appear before Magistrate.

District within which the engagement was entered into, appear with the Recruiter before a Magistrate, and no Recruiter shall remove such Emigrant from the said District until he has so appeared.

Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(a) the name, name of the father, and the age, of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Magistrate thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

28. Authentic copies of every such registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein has been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

29. Every Native of India, who in the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such town; and no Recruiter shall remove such Emigrant from the said town, or to any Emigration depôt, until he has so appeared.

Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(a) the name, the name of the father, and the age of such Emigrant,

(b) the name of the village or place of which such Emigrant is a resident,

(c) the Emigration depôt to which it is intended he shall proceed, and

(d) the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter.

If the Protector of Emigrants thinks that the intending Emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

30. An authentic copy of every such registration shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein has been engaged.

31. For the registration of every Emigrant under section twenty-seven or twenty-nine, the Recruiter shall pay to the Magistrate or the Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

On proof of the desertion of any Emigrant before embarkation, the fee paid in respect of such Emigrant may be refunded by the Magistrate or the Protector to the Recruiter by whom it was paid, under such rules as are from time to time made in that behalf by the Governor General in Council.

VII.—CONVEYANCE OF EMIGRANTS TO DEPÔTS.

32. (1.) Every Emigrant recruited under the provisions of this Act shall be conveyed by land or river with all convenient despatch to the depôt, at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

(2.) The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

(3.) Every Recruiter by or through whom Emigrants may be forwarded to a depôt shall, throughout their journey, provide them with suitable lodging and food.

VIII.—ARRIVAL AT DEPÔTS AND PROCEDURE THEREON.

33. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

34. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be shewn to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed.

The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

35. If the Medical Inspector certifies that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed,

When emigrant to be sent back to place of registration.

or if any irregularity has occurred in the recruitment of any Emigrant,

the Protector of Emigrants may order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the labourer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the labourer to such place.

36. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector or for the payment of any such sum, the Protector may pay the same to or on behalf of the Emigrant.

Failure of Emigration Agent to pay sum required to enable Emigrant to return.

Every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it is paid, as money paid to the use of such Emigration Agent.

No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay such money, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith.

Provided that every Emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector otherwise orders.

37. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt.

The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid,

examine the copy of the registration furnished to the Emigrant under section twenty-seven or section twenty-nine. If for any reason further enquiry be necessary, such enquiry shall be made forthwith.

Unless the Emigration Agent, with the consent of the Protector, refuses to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under section twenty-seven, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under section twenty-nine shall be countersigned by the Emigration Agent alone. The copy so countersigned, under whichever section it may have been furnished, shall be delivered back to the Emigrant.

If the Emigration Agent, without the consent of the Protector, refuses to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order

Refusal of Agent, without consent of Protector, to be bound by contract made by Recruiter.

the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the Emigrant to return to the place where he was registered. On failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant. All the provisions of section thirty-six as to sums paid by the Protector shall apply, so far as the circumstances of the case permit, to sums paid by him under this section.

The Protector shall also, in every case in which it seems to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent.

In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

38. After the examination mentioned in section thirty-seven, and if the Medical Inspector has given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and the age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

39. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under sections thirty-seven and thirty-eight, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make.

Protector of Emigrants to attend personally at examination and passing.

If such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the pass delivered by the Emigration Agent.

And to countersign pass.

IX.—EMIGRANT VESSELS.

40. (1.) It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel has been obtained from the Local Government. The granting or withholding any such license shall be in the discretion of the Local Government.

(2.) The Master or owner of any vessel who desires to obtain a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

(3.) Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

(4.) The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

(5.) The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

(6.) In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The Protector of Emigrants shall require the Master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the Emigrants are to be carried (or in the case of a French colony to the British Consular Agent at such colony) and the other copy of it to the Local Government.

41. (1.) No certificate under section forty shall be granted, unless there be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

(2.) No compartment shall take more than one adult Emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3.) A distinct and separate place shall be fitted up for a hospital in every Emigrant vessel.

(4.) Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5.) An Emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

42. (1.) There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which they embark,

(a.) good and wholesome provisions for the use and consumption of the said Emigrants (over and above the victualling of the Captain, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor General in Council under section fifty-six,

(b.) fuel for cooking such provisions, and

(c.) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every Emigrant on board such vessel. Such water shall be carried in tanks to be approved by the Protector of Emigrants.

(2.) Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under section fifty-six.

(3.) When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable length of the voyage to such port or place shall be deemed to be a compliance with this section.

The probable length of the voyage to such port or place shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

(4.) When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

(5.) The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of this section are complied with.

43. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.